

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

CHRISTOPHER JONES,

Petitioner,

v.

DOMINGO URIBE, JR., *Warden*,

Respondent.

Civil No. 09cv1896-JM (POR)

**ORDER DENYING WITHOUT  
PREJUDICE PETITIONER'S MOTION  
TO APPOINT COUNSEL**

**(Doc. No. 3.)**

On August 28, 2009, Petitioner filed a petition for writ of habeas corpus ("Petition"). (Doc. No. 1.) In his Petition, Petitioner challenges his July 24, 1995 conviction by asserting the following four claims: (1) ineffective assistance of counsel; (2) instructional error; (3) prosecutorial misconduct; and (4) errors in evidentiary rulings.

Also on August 28, 2009, Petitioner filed a motion to appoint counsel. (Doc. No. 3.) Petitioner claims he is nearly illiterate and suffers from mental and physical disabilities, and is currently on prescribed psychotropic medication due to his medical issues. (*Id.*) In support of his motion, Petitioner attaches medical records from February 28, 1995; April 25, 2006; and April 2007 noting that he suffers from delusions and paranoia. (*Id.* Ex. A-B.) Petitioner asserts he is a participant in the California Department of Corrections Mental Health Services Delivery System. (*Id.* at 3.) Petitioner also attaches a list of his prescription medications from February 7, 2009 to August 6, 2009. (*Id.* Ex. C.)

Generally, "there is no absolute right to counsel in civil proceedings." Hedges v. Resolution Trust Corp. (In re Hedges), 32 F.3d 1360, 1363 (9th Cir. 1994) (citation omitted). Thus, federal

1 courts do not have the authority “to make coercive appointments of counsel.” Mallard v. United  
 2 States District Court, 490 U.S. 296, 310 (1989); see also United States v. \$292,888.04 in U.S.  
 3 Currency, 54 F.3d 564, 569 (9th Cir. 1995).

4 Districts courts have discretion, however, pursuant to 28 U.S.C. § 1915(e)(1), to “request”  
 5 that an attorney represent indigent civil litigants upon a showing of exceptional circumstances. See  
 6 Terrell v. Brewer, 935 F.2d 1015, 1017 (9th Cir. 1991); Burns v. County of King, 883 F.2d 819, 823  
 7 (9th Cir. 1989). “A finding of exceptional circumstances requires an evaluation of both the  
 8 ‘likelihood of success on the merits and the ability of the plaintiff to articulate his claims pro se in  
 9 light of the complexity of the legal issues involved.’ Neither of these issues is dispositive and both  
 10 must be viewed together before reaching a decision.” Id. (quoting Wilborn v. Escalderon, 789 F.2d  
 11 1328, 1331 (9th Cir. 1986)).

12 Here, Petitioner claims that he was assisted with his motion and Petition by another prisoner;  
 13 that the legal complexity of the issues in the Petition are beyond Petitioner’s comprehension; that  
 14 Petitioner cannot adequately respond to any contention that Respondent may make of a legal nature;  
 15 and that he is unsure as to what medical records are needed and/or relevant for his action.

16 Upon review, the Court finds Petitioner has failed to meet the showing necessary for an  
 17 appointment of counsel at this time. The Petition presents four claims that the Court does not deem  
 18 to be complex and that can be analyzed utilizing the state record. Further, the Court notes that the  
 19 Petition is well-written with supporting facts and references to the state record.

20 Accordingly, the Court hereby DENIES without prejudice Petitioner’s motion to appoint  
 21 counsel.

22 **IT IS SO ORDERED.**

23 DATED: September 29, 2009

24   
 25 LOUISA S PORTER  
 26 United States Magistrate Judge

27 cc The Honorable Jeffrey T. Miller  
 28 All parties